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Attorney for Defendants Juanita's Mexican Restaurant; Clayton, Trustee; and Kalin, Trustee

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IRMA RAMIREZ and DAREN HEATERLY,)	CASE NO. CV-14-01003-JSC
)	
Plaintiff,)	CONSENT DECREE
)	
v.)	
)	
JUANITA’S MEXICAN RESTAURANT;)	
ISOBEL CLAYTON, Trustee for the)	
BENEFIT of MERRILL G. CLAYTON,)	
JR. and ISOBEL CLAYTON, UNDER)	
TRUST DATED MARCH 27, 1996,)	
)	
Defendants.)	

WHEREAS, plaintiffs IRMA RAMIREZ and DAREN HEATERLY (hereinafter “PLAINTIFFS”) have filed this action in the United States District Court, Northern District of California, alleging claims for damages and injunctive relief under the California Health & Safety Code Sections 19955, *et seq.*, California Civil Code Sections 51, 51.5 and 54, *et seq.*, and

the Americans with Disabilities Act of 1990 (42 U.S.C. §12101, *et seq.*) arising out of
PLAINTIFFS' visits to Juanita's Mexican Restaurant in 2013; and

WHEREAS, defendants Isobel Clayton, individually and as Trustee for the benefit of
Merrill G. Clayton, Jr. and Isobel Clayton under Trust dated March 27, 1996, and John E. Kalin,
individually and as Trustee of the 2000 John E. Kalin and Catharine L. Kalin Revocable Trust
(hereinafter jointly as "Landlord") and Meliton Ramos, individually and doing business as
Juanita's Mexican Restaurant (hereinafter "Tenant")(Landlord and Tenant jointly hereinafter
"DEFENDANTS") are the owners and tenant of the property and building for the public
accommodations located at 2227 Mendocino Avenue, Santa Rosa, California ("Property"); and

WHEREAS, PLAINTIFFS and DEFENDANTS have agreed to enter a Mutual
Settlement Agreement and Release ("Settlement Agreement"), requiring certain remedial
improvements at the Property to provide access to disabled persons, as set forth in the Settlement
Agreement; and

WHEREAS, PLAINTIFFS and DEFENDANTS agree that the settlement of
PLAINTIFFS' claims pursuant to their Settlement Agreement have been made in good faith and
in an effort to avoid expensive and protracted litigation, but without any admission or finding of
liability or fault as to any allegation or matter;

NOW, THEREFORE, it is ORDERED, ADJUDGED AND DECREED as follows:

I. JURISDICTION

A. The Court has jurisdiction over the subject matter of and the parties to this
Consent Decree pursuant to the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C.
§122101, *et seq.*

B. DEFENDANTS agree not to contest the Court's jurisdiction to enter into and
enforce this Consent Decree.

II. DENIAL OF LIABILITY

DEFENDANTS deny any and all legal or equitable liability under any federal, state or
local statute, regulation or ordinance, or the common law, for any damages or claims caused by
or arising out of the of the physical condition of the Property's public accommodations or from

1 acts or inaction. By entering into this Consent Decree, or by taking any action in accordance
2 with it, DEFENDANTS do not admit any allegations contained herein or in the complaint, nor do
3 they admit any liability for any purpose or admit any issue of law or fact or any responsibility for
4 the alleged noncompliance of the Property's public accommodations with the Americans with
5 Disabilities Act of 1990 (ADA), Americans with Disabilities Act Accessibility Guidelines
6 (ADAAG), California Building Code, or any other state or federal building code or statute.

7 **III. PURPOSE**

8 The purpose of this Consent Decree is to resolve amicably the existing dispute between
9 the parties hereto as to whether remedial improvements at the public accommodation, located at
10 the Property, are necessary to provide access to persons with disabilities and to settle the claims
11 asserted against DEFENDANTS in the complaint filed in this matter.

12 **IV. BINDING EFFECT**

13 A. Each of the individual undersigned signatories for DEFENDANTS certify that
14 she/he is fully authorized to enter into the terms and conditions of this Consent Decree on behalf
15 of the trust or entity on whose behalf they purport to represent.

16 B. The undersigned PLAINTIFFS certify that they are fully able and authorized to
17 enter into the terms and conditions of this Consent Decree and that they have not assigned,
18 transferred or purported to assign or transfer, to any person or entity any claim or other matter
19 which is the subject of this Consent Decree.

20 **V. WORK TO BE PERFORMED**

21 A. Specifically, DEFENDANTS shall undertake remedial measures as set forth in the
22 Settlement Agreement to make the Property's public accommodations as accessible as possible
23 under the "readily achievable standard" to persons with disabilities. The remedial work, policy
24 and procedures to be performed pursuant to this Consent Decree is set forth in detail in the
25 Settlement Agreement, which constitutes the removal of architectural barriers as referred to in
26 the ADA 28CFR part 36 and ADAAG.

27 B. The work to be performed pursuant to this Consent decree shall be completed by
28 March 31, 2015.

C. The remedial work set forth herein meets the "readily achievable" standard of the Americans with Disabilities Act of 1990.

VI. TERMINATION AND SATISFACTION

A. Upon DEFENDANTS completion of the work to be performed, as specified, pursuant to this Consent Decree or on March 31, 2015, whichever occurs earlier, the Court's jurisdiction of this matter shall terminate unless the parties show good cause for the continuance of this Consent Decree.

VII. EXECUTION OF THIS CONSENT DECREE

This Consent Decree may be executed in counterpart signatures, and such signatures may be attached in counterparts, each of which shall be deemed an original, and which together shall constitute one and the same instrument. Such counterparts may be signed as faxed signatures, which shall have the same force and effect as original signatures. The undersigned hereby consent to the foregoing Consent Decree.

PLAINTIFFS:

Dated: 9/16, 2014

Dated: 9/16, 2014


IRMA RAMIREZ, Plaintiff

DAREN HEATHERLY, Plaintiff

DEFENDANTS:

Dated: _____, 2014

ISOBEL CLAYTON, individually and as Trustee for the benefit of Merrill G. Clayton, Jr. and Isobel Clayton under Trust dated March 27, 1996

Dated: _____, 2014

JOHN E. KALIN, individually and as Trustee of the 2000 John E. Kalin and Catharine L. Kalin Revocable Trust

Dated: _____, 2014

MELITON RAMOS, individually and doing business as Juanita's Mexican Restaurant

C. The remedial work set forth herein meets the "readily achievable" standard of the Americans with Disabilities Act of 1990.

VI. TERMINATION AND SATISFACTION

A. Upon DEFENDANTS completion of the work to be performed, as specified, pursuant to this Consent Decree or on March 31, 2015, whichever occurs earlier, the Court's jurisdiction of this matter shall terminate unless the parties show good cause for the continuance of this Consent Decree.

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PLAINTIFFS:

Dated: _____, 2014

IRMA RAMIEREZ, Plaintiff

Dated: _____, 2014

DAREN HEATHERLY, Plaintiff

DEFENDANTS:

Dated: _____, 2014

ISOBEL CLAYTON, individually and as Trustee for the benefit of Merrill G. Clayton, Jr. and Isobel Clayton under Trust dated March 27, 1996

Dated: 9/10, 2014

JOHN E. KALIN, individually and as Trustee of the 2000 John E. Kalin and Catharine L. Kalin Revocable Trust

Dated: 9/10/14, 2014

Meliton Ramos,
MELITON RAMOS, individually and doing business as Juanita's Mexican Restaurant

C. The remedial work set forth herein meets the “readily achievable” standard of the Americans with Disabilities Act of 1990.

VI. TERMINATION AND SATISFACTION

A. Upon DEFENDANTS completion of the work to be performed, as specified, pursuant to this Consent Decree or on March 31, 2015, whichever occurs earlier, the Court’s jurisdiction of this matter shall terminate unless the parties show good cause for the continuance of this Consent Decree.

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PLAINTIFFS:

Dated: _____, 2014


IRMA RAMIEREZ, Plaintiff

Dated: _____, 2014

DAREN HEATHERLY, Plaintiff

DEFENDANTS:

Dated: 9-10, 2014


ISOBEL CLAYTON, individually and as Trustee
for the benefit of Merrill G. Clayton, Jr. and Isobel
Clayton under Trust dated March 27, 1996

Dated: _____, 2014

JOHN E. KALIN, individually and as Trustee of
the 2000 John E. Kalin and Catharine L. Kalin
Revocable Trust

Dated: _____, 2014

MELITON RAMOS, individually and doing
business as Juanita’s Mexican Restaurant

C. The remedial work set forth herein meets the “readily achievable” standard of the Americans with Disabilities Act of 1990.

VI. TERMINATION AND SATISFACTION

A. Upon DEFENDANTS completion of the work to be performed, as specified, pursuant to this Consent Decree or on March 31, 2015, whichever occurs earlier, the Court’s jurisdiction of this matter shall terminate unless the parties show good cause for the continuance of this Consent Decree.

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PLAINTIFFS:

Dated: _____, 2014

IRMA RAMIEREZ, Plaintiff

Dated: _____, 2014


DAREN HEATHERLY, Plaintiff

DEFENDANTS:

Dated: _____, 2014

ISOBEL CLAYTON, individually and as Trustee for the benefit of Merrill G. Clayton, Jr. and Isobel Clayton under Trust dated March 27, 1996

Dated: September 5, 2014


JOHN E. KALIN, individually and as Trustee of the 2000 John E. Kalin and Catharine L. Kalin Revocable Trust

Dated: _____, 2014

MELITON RAMOS, individually and doing business as Juanita’s Mexican Restaurant

1 **APPROVED AS TO FORM AND CONTENT:**

2 Dated: Sept, 22, 2014

THOMAS E. FRANKOVICH,
A PROFESSIONAL LAW CORPORATION

3
4 By: 

Thomas E. Frankovich
Attorneys for Plaintiffs

5
6 Dated: SEPT. 15, 2014

ROCHESTER WONG & SHEPARD
A Professional Corporation

7
8 By: 

William R. Shepard
Attorneys for Defendants

9
10 **ORDER**

11 **IT IS SO ORDERED.**

12
13 Dated: December 4, 2014

